

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JESSE PEREZ,

Plaintiff,

v.

BONTA, *et al.*,

Defendants.

Case No. 1:22-cv-00692-KES-BAM (PC)

ORDER GRANTING PLAINTIFF'S MOTION
FOR LEAVE TO FILE A THIRD AMENDED
COMPLAINT UNDER RULE 15(A)(2)

(ECF NO. 20)

ORDER DIRECTING CLERK OF COURT TO
FILE AMENDED COMPLAINT LODGED
ON AUGUST 18, 2025 AS THIRD
AMENDED COMPLAINT

(ECF No. 21)

Plaintiff Jesse Perez ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action under 42 U.S.C. § 1983. Plaintiff initiated this action on April 27, 2022, and filed a first amended complaint as of right on May 12, 2022. (*See* ECF Nos. 1, 5.) On June 8, 2022, the action was transferred to the Eastern District of California. (ECF No. 7.) On July 11, 2022, Plaintiff filed a motion for leave to file a second amended complaint, (ECF No. 11), which the Court granted on October 24, 2022, (ECF No. 15). The matter was recently assigned to the undersigned. (ECF No. 22.)

On August 18, 2025, Plaintiff filed the instant motion requesting leave to amend his complaint. (ECF No. 20.) By the motion, Plaintiff seeks to (1) add factual allegations regarding his existing claims; (2) add causes of action supported by the factual allegations; and (3) dismiss retired defendants and substitute defendants appointed to the vacant positions. (*Id.* at 3.) Plaintiff

1 asserts that because this action is in its early stages, the Court has not yet issued its screening
2 order, and defendants have not appeared, there exists no likelihood of prejudice to any opposing
3 party. (*Id.*) Plaintiff has lodged his proposed third amended complaint, which exceeds forty
4 pages in length. (ECF No. 21.)

5 Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend the party's
6 pleading once as a matter of course at any time before a responsive pleading is served.

7 Otherwise, a party may amend only by leave of the court or by written consent of the adverse
8 party, and leave shall be freely given when justice so requires. Fed. R. Civ. P. 15(a). "Rule 15(a)
9 is very liberal and leave to amend shall be freely given when justice so requires."

10 *AmerisourceBergen Corp. v. Dialysist West, Inc.*, 465 F.3d 946, 951 (9th Cir. 2006) (citation and
11 quotation omitted). However, courts "need not grant leave to amend where the amendment: (1)
12 prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue delay in litigation;
13 or (4) is futile." *Id.*

14 In considering the relevant factors, the Court finds no evidence of prejudice, bad faith,
15 undue delay in litigation, or futility. Plaintiff's complaint has not yet been screened, and no
16 defendants have been served or have appeared in this action. Plaintiff's motion to amend shall be
17 granted. The Court will screen Plaintiff's third amended complaint in due course.

18 Accordingly, IT IS HEREBY ORDERED as follows:

- 19 1. Plaintiff's motion for leave to file a third amended complaint, (ECF No. 20), is
20 GRANTED;
- 21 2. The Clerk of the Court is DIRECTED to file the amended complaint lodged on August 18,
22 2025, (ECF No. 21), as the third amended complaint; and
- 23 3. Plaintiff's third amended complaint will be screened in due course.

24
25 IT IS SO ORDERED.

26 Dated: October 10, 2025

27 /s/ Barbara A. McAuliffe
28 UNITED STATES MAGISTRATE JUDGE